

Graham & James



12241-C
DEC 26 1995 - 12 45 PM

INTERSTATE COMMERCE COMMISSION

December 20, 1995

0100902032

Secretary
Interstate Commerce Commission
12th & Constitution Avenue
Washington, DC 20423

Attorneys

One Maritime Plaza
Suite 300
San Francisco, CA
94111-3492
Tel (415) 954 0200
Fax (415) 391 2493

Direct tel
(415) 954 0327

Dear Secretary:

I have enclosed an original and three counterparts of the following document, also described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code:

Assignment and Assumption Agreement, dated
December 7, 1995, between First Security Leasing
Company and ORIX USA Corporation

This document is an assignment and assumption of a lease and, as such, is a secondary document. The primary lease document to which this assignment and assumption is connected is recorded under Recordation Number 12241. The names and addresses of the parties to this document are as follows:

Assignor (Lessor):

First Security Leasing Company
381 East Broadway, 2nd Floor
Salt Lake City, UT 84111
Attention: James Peters, Vice President

Assignee (Lessor):

ORIX USA Corporation
One Bush Street, Suite 250
San Francisco, CA 94104
Attention: Frank G. Anton, Vice President

A description of the equipment covered by this document follows:

seven General Motors EMD model GP39-2,
2,300 horsepower, four axle diesel-electric
locomotives, General Motors Locomotive
Specification 8075, as modified, with Road
Numbers 705 through 711, inclusive

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DEC 26 12 37 PM '95

Secretary,
Interstate Commerce Commission
December 20, 1995
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A fee of \$21 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to the undersigned.

A short summary of this document to appear in the index follows:

Assignment and Assumption Agreement, dated December 7, 1995, covering Equipment Lease, dated as of September 15, 1980, Recordation Number 12241, covering seven locomotives.

Very truly yours,



David V. Biesemeyer
of
GRAHAM & JAMES

DVB:lk
Enclosures

Our File: 21489.40





Washington, D.C. 20423-0001

12/26/95

Office of the Secretary

David V. Biesemeyer
Braham & James
One Maritime Plaza, Ste. 300
San Francisco, CA., 94111-3492

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 12/26/95 at 12:45PM, and assigned recordation number(s). 12241-C.

Sincerely yours,

Vernon A. Williams
Secretary

Enclosure(s)
(0100902032)

\$ 21.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature

12241-C

DEC 26 1995 12:45 PM

ASSIGNMENT AND ASSUMPTION AGREEMENT

COMMERCE COMMISSION

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated December 7, 1995 (this "Agreement"), is between First Security Leasing Company, a Utah corporation (the "Seller"), and ORIX USA Corporation, a Delaware corporation (the "Buyer").

W I T N E S S E T H :

WHEREAS, the Buyer and the Seller have entered into that certain Purchase Agreement, dated as of November 30, 1995 (the "Purchase Agreement"), providing for the purchase of the Ownership Interest by the Buyer from the Seller, subject to the terms and conditions set forth therein; and

WHEREAS, the Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer to effect such purchase.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

1. Definitions. Capitalized terms used herein without definition shall have the meanings assigned to them in Section 6 of this Agreement.

2. Assignment. The Seller hereby sells to the Buyer all of the Seller's rights, title and interest in and to the Equipment and assigns and delegates to the Buyer all of the Seller's rights and obligations under each of the following:

- (a) the Participation Agreement;
- (b) the Purchase Order Assignment;
- (c) the Lease;
- (d) the Security Agreement; and
- (e) the Note.

Notwithstanding the foregoing, the Seller shall continue to be entitled to the benefit of any rights to indemnification for tax and other matters which arose or may arise from or be related to any event or circumstance occurring or in existence at or prior to the Closing Date.

3. Acceptance of Assignment; Assumption of Obligations; Effect of Assignment. The Buyer hereby accepts the assignment contained in Section 2 hereof and, in respect of the period after the Closing, assumes all obligations of the Seller under, and agrees to be bound to the same extent as the Seller by all the terms of, the Operative Agreements and the Note. The Buyer shall be deemed to stand in the place of the Seller for all purposes under the Operative Agreements and the Note and each reference in the Operative Agreements and the Note to the Seller shall be deemed to mean the Buyer. The Seller, in respect of the period after the Closing, is released of all obligations of the Seller under the Operative Agreements and the Note except for those representations and warranties which expressly survive any termination thereof.

4. Representations as to Applicable Law. To the best of its knowledge, the Seller represents and warrants that the transfer of the Ownership Interest and the assignment and assumption as contemplated by the Purchase Agreement and effected hereby do not violate any provision of any applicable license, judgment, order, statute, law or regulation or create a relationship which would be in violation of any thereof. To the best of its knowledge, the Buyer represents and warrants that the transfer of the Ownership Interest and the assignment and assumption as contemplated by the Purchase Agreement and effected hereby do not violate any provision of any applicable license, judgment, order, statute, law or regulation or create a relationship which would be in violation of any thereof.

5. Representations and Warranties of Buyer. The Buyer represents and warrants that:

(a) The Buyer is a corporation validly existing and in good standing under the laws of the State of Delaware, and has full power and authority to enter into, execute and deliver this Agreement and the Purchase Agreement, and to perform each and all matters and things required to be observed or performed by it hereunder and thereunder and under each of the Operative Agreements and the Note;

(b) This Agreement and the Purchase Agreement have been duly authorized, and when this Agreement and the Purchase Agreement have been executed and delivered by the Buyer, this Agreement, the Purchase Agreement, the Operative Agreements and the Note will constitute the legal, valid and binding obligations, contracts and agreements of the Buyer enforceable in accordance with their respective terms, except as such terms may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally;

(c) No approval, consent, or withholding of objection on the part of any federal, state or other governmental

body with respect to the Buyer is necessary in connection with the lawful execution and delivery of this Agreement or the Purchase Agreement or the carrying out by the Buyer of any of the transactions contemplated hereby or thereby or by the Operative Agreements or the Note;

(d) There are no actions, suits or proceedings at law or in equity or by or before any governmental instrumentality or other agency pending against, or, to the knowledge of the Buyer, threatened against the Buyer which would question the right, power or authority of the Buyer to enter into or perform this Agreement, the Purchase Agreement, the Operative Agreements or the Note or which will have a material adverse effect on the ability of the Buyer to fulfill its obligations hereunder or thereunder;

(e) The Buyer has the title to the Equipment conveyed to it by the Seller and such title is free of liens and encumbrances resulting from claims against the Buyer other than (i) liens and encumbrances resulting from claims which the Lessee has agreed to pay under the Lease, (ii) the Purchase Order Assignment, (iii) the Participation Agreement, (iv) the Lease or (v) created or granted by the Seller pursuant to the Security Agreement; and

(f) The entering into of the Purchase Agreement and this Agreement by the Buyer and the performance by the Buyer of the Purchase Agreement, this Agreement, the Operative Agreements and the Note will not violate any provision of Buyer's certificate of incorporation or by-laws or any judgment, order, law or regulation applicable to it or result in the creation or imposition of any lien, charge, security interest or other encumbrance upon the Equipment (except as referenced in Section 5(e) above) or result in any breach of, or constitute a default under any indenture, mortgage, deed of trust, bank loan, credit agreement, loan agreement or other instrument to which it or any of its affiliates is a party or by which it or its assets may be bound.

6. Definitions. Except as otherwise specified or as the context may otherwise require, the following terms have the respective meanings set forth below whenever used in this Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

Closing: the closing on the Closing Date of the transaction contemplated by this Agreement.

Closing Date: the date of this Agreement.

Equipment: seven General Motors EMD Model GP39-2, 2,300 horsepower, four axle diesel-electric locomotives, General

Motors Locomotive Specification 8075, as modified, with Road Numbers 705 through 711, inclusive.

Lease: the Equipment Lease, dated as of September 15, 1980, between the Seller and the Lessee, recorded with the Interstate Commerce Commission, pursuant to 49 U.S.C. Section 11303, on September 30, 1980, at 10:55 a.m. and given recordation number 12241.

Lender: First Security Bank of Idaho, N.A., a national banking association.

Lessee: Service Station Holdings, Inc., a Delaware corporation, and Kennecott Utah Copper Corporation, a Delaware corporation, jointly and severally.

Note: the 13-1/8% Secured Note, dated October 31, 1980, of the Seller.

Operative Agreements: the Purchase Order Assignment, the Participation Agreement, the Lease and the Security Agreement.

Ownership Interest: the Seller's rights, title and interest in and to the Equipment and the Seller's rights and obligations under the Operative Agreements and the Note.

Participation Agreement: the Participation Agreement, dated as of September 15, 1980, among the Lessee, the Lender and the Seller.

Purchase Order Assignment: the Purchase Order Assignment, dated as of September 15, 1980, between the Lessee and the Seller.

Security Agreement: the Security Agreement, dated as of September 15, 1980, between the Seller and the Lender, recorded with the Interstate Commerce Commission, pursuant to 49 U.S.C. Section 11303, on September 30, 1980, at 10:55 a.m. and given recordation number 12242.

7. Amendments. No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

8. Notices. All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 10.5 of the Purchase Agreement.

9. Headings. The section headings used in this Agreement are for convenience of reference only and shall not be

used or construed to define, interpret, expand or limit any provision hereof.

10. Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

11. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of Utah without giving effect to the conflict of law rules thereof.

12. Entire Agreement. This Agreement and the Purchase Agreement (together with Exhibits and Schedules thereto) represent the entire agreement of the parties hereto with respect to the subject matter hereof and supersede and cancel any prior oral or written agreement, letter of intent or understanding with respect to such subject matter.

13. Intended Reliance. The representations, warranties and covenants contained in Sections 3, 4 and 5 hereof are intended to be relied upon by the Lessee and the Lender, and, accordingly, the Lessee and the Lender are intended beneficiaries thereof.

14. Recordation. The Seller and the Buyer agree to record this Agreement with the Interstate Commerce Commission to evidence the assignment by the Seller to the Buyer of the Seller's rights and obligations under the Lease and the Security Agreement.

[THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Agreement has been duly
executed by the parties hereto as of the date first above
written.

FIRST SECURITY LEASING COMPANY

By: 
Name: Mark J. Carpenter
Title: Dr. Vice President

ORIX USA CORPORATION

By: _____
Name: _____
Title: _____

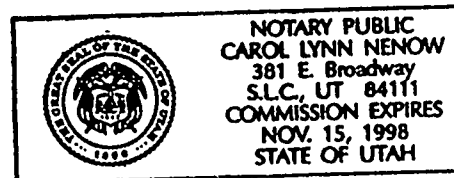
State of Utah

County of Salt Lake

On this, the 12 day of December, 1995, before me, a Notary Public in and for said County and State, personally appeared Mark S. Carpenter, the 5th Vice President of First Security Leasing Company, who acknowledged himself to be a duly authorized officer of First Security Leasing Company, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Carol Lynn Nenow
Notary Public
My Commission Expires: 11-15-1998
Residing in: State of Utah



IN WITNESS WHEREOF, this Agreement has been duly
executed by the parties hereto as of the date first above
written.

FIRST SECURITY LEASING COMPANY

By: _____
Name: _____
Title: _____

ORIX USA CORPORATION

By: J. J. Anton
Name: Frank G. Anton
Title: Vice President

State of California
County of San Francisco

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On this, the 12 day of DECEMBER, 1995, before me, a Notary Public in and for said County and State, personally appeared Frank G. Anton, a Vice President of ORIX USA Corporation, who acknowledged himself to be a duly authorized officer of ORIX USA Corporation, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Blanche S. Berger
Name: BLANCHE S. BERGER
Notary Public
My Commission Expires: 7/21/99
Residing in: SAN FRANCISCO, CALIF.

